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I-83 Mount Rose project: What's the latest on the dispute, and what's next?

Teresa Boeckel, York Daily Record Published 5:01 a.m. ET Feb. 11, 2020 | Updated 1:36 p.m. ET Feb. 12, 2020

Cherry Hill Construction, the contractor working on the much-criticized Interstate 83 Mount Rose interchange makeover, has reiterated in its latest court filing that its work did not delay the project.

The project is now 456 days behind schedule.

The contractor filed a claim against the state Department of Transportation in December, [seeking an additional \\$24 million for the project](#) ([/story/news/2019/12/10/83-mt-rose-contractor-seeks-24-million-penn-dot-late-project/4385506002/](#)). It also wants an extension to the contract completion date and a reversal of the monetary damages being assessed.

The filings are with the state Board of Claims, a quasi-judicial agency that acts as a trial court for contractor claims filed against the state.

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This is looking west across Interstate 83 at one of the ramps of the I-83 Mount Rose Avenue project, on Feb. 12, 2020. (Photo: Paul Kuehnel, York Daily Record)

What happened last time?

The contractor and PennDOT have sparred in their filings with the court, and [the parties blame each other for the delays](#). ([/story/news/2020/01/07/interstate-83-mt-rose-project-penn-dot-responds-contractor-claims-delays/2826640001/](#))

Cherry Hill alleged in its complaint that it is forced to pursue a claim for accelerating its work because PennDOT refuses to grant a contract extension. PennDOT says that's not the case because the department has not directed the contractor to speed up its work.

PennDOT responded that it denies that any acceleration has taken place. To the extent that Cherry Hill has accelerated its work, "It has done so on its own initiative to attempt to recover from delays" that the contractor is responsible for, PennDOT has said.

More: [Why you often see no workers at long delayed I-83/Mount Rose Ave. project site](#) ([/story/news/2020/01/09/83-mount-rose-project-why-contractor-says-only-minor-cleanup-happening-construction-site-penn-dot/2842756001/](#))

More: [I-83 Mount Rose Avenue project: A timeline of events from start to unfinished](#) ([/story/news/2020/01/13/83-mount-rose-avenue-project-timeline-events-start-legal-battle/2637387001/](#))

More: [I-83 in 2019: Construction, crashes, flooding and even a scuffle](#) ([/story/news/2019/12/30/83-year-review-crashes-scuffle-flooding-and-construction-highlighted-2019/4227916002/](#))

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Cherry Hill refuted PennDOT's claims in its latest 14-page filing on Feb. 5.

For example, crews uncovered a debris landfill while working, which the contractor says resulted in a six-month delay. PennDOT says most of it was construction waste — all of which was clean fill — and a small amount of trash.

The clean fill could have been loaded on trucks without any crushing or re-handling and taken to a waste site that accepts such material, PennDOT says, but the contractor chose a place that required that it be broken into smaller pieces.

However, the contractor in the latest filing says crews found concrete slabs, corrugated pipe, pieces of utility poles, dumped asphalt and tires among the debris. Cherry Hill says in the filing that sorting and crushing of the rubble and debris was needed for disposal at the proper landfill.

The contractor added that the project-approved dump site only accepted clean fill.

"PennDOT was notified of this and its field inspectors witnessed the entire operation," it states.

Cherry Hill also outlined in its latest filing the timeline for dealing with the removal of groundwater that crews hit while excavating for the foundation of a structure. The contractor says it took 155 days for approval and implementation of an alternate "dewatering" system.

PennDOT has said it was the contractor — not the state — that took five months to address how to remove groundwater. The foundation was "dewatered" within a day after a method was selected and implemented.

What's next?

Cherry Hill Construction and PennDOT have been directed to proceed with obtaining evidence in preparation for trial, according to a Feb. 6 letter from Chief Administrative Judge Jeffrey F. Smith.

The letter also advises the parties that a board representative "will be available to facilitate informal settlement negotiations" at the request of either the contractor or PennDOT.

Volunteer mediation services also are available through the Pennsylvania Office of General Counsel's Mediation Program, the letter states. It's free unless the mediator has travel expenses, such as mileage, tolls, hotel or meals.

Otherwise, the case is headed to trial.

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